

In the Matter of Merchant Mariner's Document No. Z-595148 and
and all other Seaman Documents
Issued to: GASPAR Q. FALU

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1224

GASPAR Q. FALU

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 1 February 1960, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as a fireman-watertender on board the United States SS PIONEER STAR under authority of the document above described, on or about 16 November 1959, Appellant assaulted and battered the ship's Chief Engineer while ashore.

At the hearing, Appellant acted as his own counsel. Appellant entered a plea of not guilty to this specification and others which were found not proved by the Examiner.

After considering the evidence submitted by both parties, the Examiner rendered the decision in which he concluded that the charge and one specification had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of four months outright plus eight months on twelve months' probation.

FINDINGS OF FACT

On 16 November 1959, Appellant was serving as a fireman-watertender on board the United States SS PIONEER STAR and acting under authority of his document while the ship was in the port of Brisbane, Australia.

About 1800 on this date, the Chief Engineer and his First Assistant were ashore walking toward a streetcar stop when Appellant approached to voice a complaint. The Chief Engineer said that such matters should be taken care of on the ship. The two officers continued on to the car stop where Appellant again approached and tried to shove the Chief Engineer into the street. When the latter tried to ward off Appellant, he struck the Chief Engineer several blows in the face. (His left eye was blackened and his cheekbone was injured.) The First Assistant and local police stopped the fight.

Appellant's prior record consists of a probationary suspension in 1951 and a one month outright plus a probationary suspension in 1954. These orders resulted from various infractions of shipboard discipline.

OPINION

On appeal, it is simply contended that the order against Appellant's document is excessive.

At the hearing, Appellant testified that he acted in self-defense after he was struck by the Chief Engineer. The Examiner accepted as true the version presented by the Chief Engineer and First Assistant Engineer as set forth in the above findings of fact.

On the basis of these facts, it is my opinion that the order imposed was entirely justified, particularly because the person attacked by Appellant was the officer in charge of all the Engineering Department personnel serving the ship. Although committed ashore, this offense indicates that Appellant does not have the proper respect for the ship's officers whose duty it is to maintain discipline.

ORDER

The order of the Examiner dated at New York, New York, on 1 February 1960, is AFFIRMED.

A. C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 20th day of March 1961.